



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LACONIA-ASSOCIATION OF SUPPORT STAFF, NEA-NEW HAMPSHIRE

Complainant

v

LACONIA SCHOOL BOARD

Respondent

CASE NO. C-0801:3

DECISION NO. 84-81

APPEARANCES

Representing Laconia Association of Support Staff
Wally Cumings, Uniserv Director, NEA-New Hampshire

Representing Laconia School Board
Jay C. Boynton, Esquire

Also in attendance
Frank Poole
James O. Anderson
Richard H. Coggin, Jr.
George Minior .

BACKGROUND

On July 10, 1984 the Laconia Association of Support Staff, Laconia Education Association, NEA-New Hampshire (Association) filed improper practice charges against the Laconia School Board (School Board) alleging violation of RSA 273-A:5, I, (a) and (e). The Association charged that the School Board had acted improperly by declaring an impasse, which amounted to a refusal to "negotiate in good faith", when many items remained for negotiation and after only a few but productive negotiating sessions.

The School Board denied any breach of RSA 273-A, pointed out that the present collective bargaining agreement expired on June 30, 1984 and that the Board had requested negotiations as early as September 1983 but they had not begun until February 1984. The School Board further pointed out that RSA 273-A:12 I, in part focuses on the budget submission date as a particular deadline for reaching agreement or declaring impasse and further that May 17, 1984 (the date the School Board declared impasse) is long after the statutory budget submission date of February 1, 1984. Further, the School Board pointed out that proceeding to mediation is attempting to settle disputes, not "declaring a bad faith impasse".

A hearing was held at the PELRB's office in Concord, N.H. on September with all parties represented..

FINDINGS OF FACT AND RULINGS OF LAW

At hearing, testimony and exhibits clearly **established that the parties** were negotiating constructively when impasse was declared, However slow in **starting**.
Testimony established further that many items remained to be negotiated when the School Board declared impasse on May 17, 1984, some ninety-two (92) days after the budget submission .date.

The-PELRB finds the pertinent section of RSA 273-A:12 Resolution of Disputes to state the following: (emphasis added)

1. "Whenever the parties request the Board's assistance or have bargained to impasse, or if the parties have not reached agreement on a contract within sixty days, prior to the budget submission date, a neutral party..... shall undertake to mediate the issues"

The PELRB finds that the language of the statute clearly allows for impasse declaration if no agreement has been reached within the time Limits imposed by the budget submission date regardless of whether all issues have been bargained or when the budget submission date "window" has been entered.

The fact that the parties continued to negotiate well past the budget submission date is accepted as evidence of their desire to reach agreement and the PELRB applauds these efforts. However, the law allows either party to request mediation when the budget "window" has been "opened". However much the PELRB would wish negotiations to continue, we cannot overrule a right clearly established by the law. In this case, the declaration of impasse cannot be viewed as an unfair labor practice.

DECISION

The PELRB does not find that the Laconia School Board has Committed an unfair labor practice by declaring impasse since they were exercising their rights under RSA 273-A:12.

The PELRB urges the parties to attempt to negotiate their differences pending the services of a mediator.

ROBERT E. CRAIG, CHAIRMAN

Signed this 8th clay of November 1984.

By unanimous vote. Robert E. Craig, Chairman presiding. Members James Anderson and Richard Roulx present and voting. Also present, Evelyn C. LeBrun, Executive Director.